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Member of the European Commission

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Dear Ms. Guerra,

Thank you for your letter of 3 July 2017 on behalf of the SIS II supervision coordination group (SCG) addressed to President Juncker. He asked me to reply on his behalf.

You point out that Data Protection Authorities (DPAs) are currently facing problems in the fulfilment of their supervisory tasks under the current Schengen *acquis* owing to restrained resources at their disposal. Indeed, the creation of new EU large-scale IT systems and their interoperability with a view to better managing our borders and security will add an additional workload on DPAs.

I fully agree with you that DPAs play a key role in ensuring the lawfulness of the processing of personal data of individuals, and thereby contribute to upholding other Fundamental Rights and freedoms. The DPAs' role is invaluable and indispensable, in particular in the context of the EU information systems in the Area of Justice Freedom and Security where the rights of data subjects might be restricted. Furthermore, I also recognise the contribution of the DPAs' supervision to the security of data processing in the information systems concerned. Often, as a result of the audits and other supervisory activities, DPAs require improvements to security measures, thereby contributing not only to the upholding of an individual's Fundamental Rights, but also to the operational security of the information systems (and the data contained therein), as well as to data quality. Constant, consistent and thorough control by DPAs of those systems thus also benefits and facilitates the work of the police, migration and other security forces.

In recognition of the crucial role of DPAs, the EU legal framework related to the 2nd Generation Schengen Information System (SIS II) requires that appropriate resources are placed at their disposal. This echoes the general requirements of the data protection legal framework, both under the current Directive 46/95, as well as under Regulation EU/2016/679 (GDPR) and a Directive EU/2016/680 on police and justice (Police Directive). This new legal framework, which will also apply in the context of the *Schengen acquis* and the new large-scale databases that you mentioned, clearly requires Member States to provide their supervisory authorities “*with the human, technical and financial resources, premises and infrastructure necessary for the effective performance of [their] tasks and exercise of [their] powers [...]*”¹. The legal obligation is thus firmly in place. This will continue to be taken into account as the Commission prepares its upcoming proposal on the interoperability of information systems for borders and security.

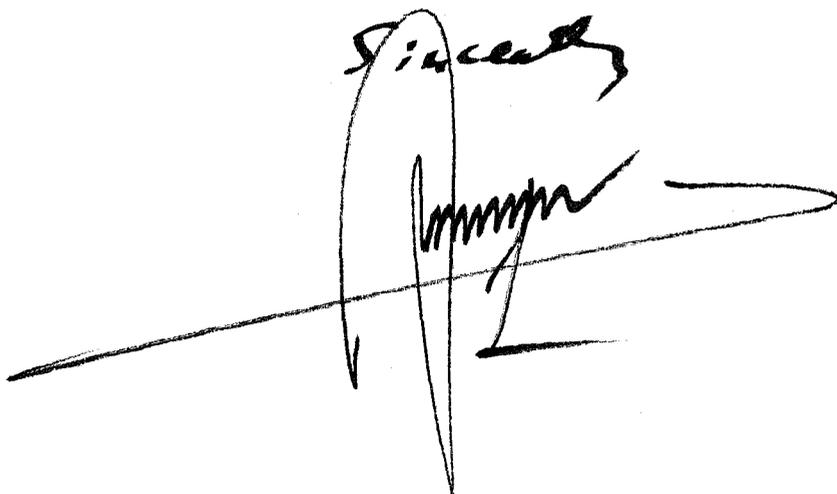
Ms Clara Guerra
Chair of the SIS II Supervision Coordination Group

¹ Article 52 (4) GDPR and 42 (4) Police Directive

The question of sufficient resources for DPAs to fulfil their supervisory role in respect of SIS II and the VIS Information System (VIS) is one of the main issues covered during data protection Schengen evaluations of the Member States under Regulation 1053/2013². Indeed, if the evaluation team concludes that there are deficiencies in that respect, the Member States concerned receive recommendations to improve the resources of their DPAs.

You might be aware of the letter dated 8 March 2017 that Ms Falque-Pierrotin addressed, on behalf of the Article 29 Working Party, to the Member States in the Council of the EU. In her letter, Ms Falque-Pierrotin stressed that, with the adoption of the new legal framework on data protection in the European Union (*i.e.* the GDPR and the Police Directive) as well as the proposed review of the ePrivacy Directive (2002/58/EC), the DPAs' powers, role and responsibilities are significantly increased both at the national and European level. In particular she called on the Member States that have not yet reviewed the DPAs' resources to do so, in the light of their enlarged role and new tasks, and so to provide them with sufficient financial and human resources to conduct their duties. This should be done before the new data protection framework applies (May 2018), and with the ultimate goal of enabling the proper preparation for upcoming challenges.

Finally, my colleague Commissioner Jourová, in her letter to Minister Bonnici of the Maltese Presidency of 24 May 2017, equally stressed the pivotal role that DPAs play, endorsed the concerns expressed by Ms Falque-Pierrotin and encouraged Member States to equip Data Protection Authorities with the appropriate resources.

A handwritten signature in black ink, appearing to read 'S. Jourová', is written over a horizontal line. The signature is stylized and includes a large, vertical, teardrop-shaped flourish on the left side.

² Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen